

Hundreds of veterans blocked from appeals process and denied benefits because of arbitrary deadline

Washington DC – Today, Congressmen John Adler (NJ-3), Gary Ackerman (NY-5), and John Hall (NY-19) announced new legislation to fix a broken appeals process that is leaving hundreds of veterans without the benefits they deserve. [Recent news reports](#) describe how more than two hundred veterans are being denied the chance to appeal for their benefits after missing a rigid and arbitrary deadline with the United States Court of Appeals for Veterans Claims (known as the Veterans Court).

"This claims process is failing our veterans," said Congressman Adler. "I find it outrageous that the brave men and women who never hesitated to serve our country are cast aside over an arbitrary deadline. Our veterans deserve better and I will work to ensure they receive the benefits they earned defending our freedom."

"We need to change the appeals process so that it works for veterans, rather than against them" Congressman Ackerman said. "It is unconscionable that veterans with service connected disabilities are being denied the right to appeal VA decisions because of an arbitrary deadline that many are incapable of meeting due to the very service connected disabilities from which they suffer. We can never thank our veterans enough for the sacrifices they made, and now we must do all we can to help them receive the benefits that they rightly deserve."

"No veteran should be denied benefits over a bureaucratic technicality," Congressman Hall said. "I look forward to taking this bill up in the committee I chair, the House Veterans Subcommittee on Disability Affairs and Memorial Assistance. I want to thank Congressman Adler for the leadership he has displayed in bringing this bill forward, and I thank Congressman Ackerman for his support of this measure."

The Fair Access to Veterans Benefits Act (H.R. 5064) would require the U.S. Court of Appeals for Veterans' Claims (Veterans Court) to hear appeals by veterans of administrative decisions denying them benefits when circumstances beyond their control – often the very service-related disabilities that entitle them to benefits – render them unable to meet the deadline for filing an appeal.

A recent decision by the U.S. Court of Appeals for the Federal Circuit, in *Henderson v. Shinseki*, ruled against allowing a veteran to pursue his appeal because he missed a deadline. David

Henderson, the plaintiff, suffered from paranoid schizophrenia as result of his active-duty service in the Korean War. The government denied his benefits claim in 2004 and dismissed his appeal because he missed a filing deadline – by just 15 days. Mr. Henderson asked the Veterans Court to excuse his late filing because it was caused by his service-related disability, a claim his psychiatrist supported under oath. The Veterans Court refused to do so, and a divided Federal Circuit affirmed its decision.

The legislation introduced by Reps. Adler, Ackerman, and Hall would require the Veterans Court to excuse late filings if the veteran demonstrates "good cause" so that meritorious benefits claims aren't denied their day in court. Additionally, the Fair Access to Veterans Benefits Act requires the Veterans Court to reinstate untimely appeals already dismissed as a result of that court's failure to toll the filing period for good cause.

Last week, Congressman Adler, the only NJ member of the House Veterans Affairs (VA) Committee, sent a [letter to House VA Chairman Bob Filner](#) demanding an investigatory hearing into the U.S. Department of Veterans Affairs' Claim Processing system.